

COUNTY OF LOUDOUN
DEPARTMENT OF BUILDING AND DEVELOPMENT
MEMORANDUM

DATE: December 2, 2009

TO: Mike Elabarger, Project Manager, Department of Planning

FROM: Val Thomas, Planner, Zoning Administration

CASE NUMBER AND NAME: ZCPA 2009-0007; ZMOD 2009-0004;
Belmont Glen Village;
SECOND REFERRAL

TAX MAP/PARCEL NUMBER: /78/////////9; 195-19-3084

Staff has reviewed the revised **Zoning Concept Plan Amendment** and **Zoning Modification** application and offers the following additional comments:

1. **Modification of required buffer adjacent to residential development, R-8 (Single-Family Residential) Zoning District, § 3-509(C), Additional Development Standards – Minimum Buffer.** A permanent common open space buffer of fifty (50) feet in depth with a Category 2 Buffer Yard (Section 5-1414(B)) shall be provided where a development adjoins an existing or planned residential district, land bay or development which has a minimum allowable lot size of 6,000 square feet or greater. Such buffer area may be included in open space calculations.

Section 4-109(C) Site Planning, External Relationships – Uses adjacent to single-family, agricultural, or residential districts or land bays allowing residential uses. Where residential uses in a PD-H district adjoin a single-family residential, agricultural, or residential district or land bay allowing residential uses, or a commercially zoned development approved subject to proffers prior to adoption of this ordinance, the development shall provide for either:

- (1) Single family dwellings on minimum lots of (20,000) square feet or greater, exclusive of major floodplain, along such perimeter; or,
- (2) A permanent open space buffer along such perimeter at least fifty (50) feet in width, landscaped with a Type 2 Buffer Yard.

Section 4-110(I) Site Planning – Internal Relationships – Uses adjacent to single-family residential, or agricultural and residential districts or land bays allowing residential uses. Where residential uses in a PD-H district adjoin a single-family residential,

agricultural, residential district or land bay allowing residential uses, the development shall provide for either:

- (1) Single family dwellings on minimum lots of (20,000) square feet or greater, exclusive of major floodplain, along such perimeter, or;
- (2) A permanent open space buffer along such perimeter at least fifty (50) feet in width, landscaped with a Type 2 Buffer Yard.

Proposed Modification – Along the boundary that adjoins the Goose Creek Preserve property to the northeast, the applicant proposes to provide:

- A minimum 25-foot permanent open space buffer along lot 37, a lot containing a minimum of 10,000 square feet;
- A minimum 30-foot permanent open space buffer along lots 48-51, lots containing a minimum of 9,000 square feet;
- A 25-foot rear yard along lots 38 and 39, lots containing a minimum of 7,500 square feet;

Applicant's Justification – The Applicant notes that the adjacent Goose Creek Preserve property is zoned PD-H4, at a higher density than Belmont Glen and has no required minimum lot size. Both properties propose single family detached units along the common property boundary and Goose Creek Preserve is providing an open space buffer along the common boundary with Belmont Glen Village. This open space buffer is wooded with mature stand of trees.

Staff Response – The public purpose of the 50-foot buffer requirement is to provide a visual separation between two zoning districts or residential land bays with potentially dissimilar lot sizes and to provide protection of the development from potentially adverse influences. While Staff does not believe that the development provides for an innovative design, the open space buffer provided on the adjacent development, the minimum required rear yard setback and reduced open space buffer on these few lots serves the required visual separation of the Ordinance. Further, the development is proposed to locate in close proximity to the Goose Creek Preserve property thus maximizing the open space buffer along Goose Creek (67% of the site will be maintained as open space). Staff can support this modification request.

However, the modification of Section 4-110(I) do not apply since the modification request relates only to external relationship of the proposed development to the adjacent development and not between internal land bays. Please remove this section from Checklist Item P as well as from Sheet 7 of the ZCPA Plans. Further, staff asks that the Applicant include proposed lots 17, 18 and 19 in this modification request as the adjacent proposed private road do not meet the requirement of the ordinance, which requires a permanent open space buffer 50 feet wide, landscaped with a Type 2 Buffer Yard.

2. **Modification of ADU Requirements to permit cash in lieu of units, § 7-103(A)(1) Single Family Detached and Single Family Attached Units.** For active rezoning applications that have not yet complied with Section 6-1204(D)(1) of this Ordinance as of December 16, 2003, and for rezoning, special exception, site plan and preliminary subdivision applications officially accepted after December 16, 2003 which request approval of single family detached dwelling units or single family attached dwelling units, the proposed density shall reflect an increase of twenty percent (20%), including the required number of affordable dwelling units, unless such figure is modified pursuant to the provisions of Section 7-108 or the applicant provides cash in lieu of providing the single family detached units pursuant to Section 7-108(A)(3).

Proposed Modification - Request modification to permit cash buyout in lieu of the required Affordable Dwelling Units (ADUs), pursuant to Section 7-108(A)(3), which states as follows:

... any request for rezoning, special exception, or preliminary subdivision (by right) which contains only single family detached units, a modification may be requested to provide cash in lieu of the units. Such cash must be paid prior to the first zoning permit. In the event that an applicant requests a modification to make such cash payment, the following criteria shall apply:

- (a) The cash formula of Section 7-108(E) shall apply.
- (b) The decision to pay cash in lieu of providing the units has to be made at the time of approval of rezoning, special exception or preliminary subdivision (by right), as applicable.
- (c) No bonus density is to be granted for a development, when an applicant opts to provide cash in lieu of units.
- (d) The district regulations of Article VII shall not apply to a development when an applicant opts to provide cash in lieu of units.

Applicant's Justification – The Applicant notes that the proposed application is an amendment to ZMAP 2002-0007 and adopted as ZMAP 2004-0006 as part of a court settlement of the original rezoning application. The proposed application is seeking to retain the proffers and applicable modifications that were adopted under ZMAP 2004-0006, and this modification is identical to the modification approved under ZMAP 2004-0006.

Staff comment- The original application ZMAP 2002-0007 fully complied with all Zoning Ordinance provisions, including Article VII governing affordable dwelling unit developments and included a cash buy-out of the affordable dwelling units for 6.25% of the total units payable to the County prior to issuance of the first zoning permit on the property. ZMAP 2004-0006 was adopted with the same modification.

The cash buy-out included in the approved proffers meets the cash formula of Section 7-108(E) in effect on December 1, 2003. The original modification was granted as part of the rezoning application constituting all single-family detached dwelling units. No bonus density was approved for this application and the Article VII district regulations were not used. It should also be noted that the Modification Subcommittee of the Affordable

Dwelling Unit Advisory Board (ADUAB) as well as the full ADUAB recommended approval at the time of the rezoning, as did staff. Staff therefore supports this modification.

3. On the Concept Development Plan (Sheet 3), the Applicant depicts a proposed minimum side yard of six feet, while Section 3-506(C)(1)(b) requires a minimum side yards of 8 feet, or, 16 feet if only one side yard is provided, with a minimum distance of 16 feet between buildings. Please correct this, or submit a modification request to reduce the side yard to six feet.
4. On Sheet 7 (“Typical Sections, Plan Enlargement and Modifications”), the depiction of the 6’/25’ and rear/side setback is confusing as it appears to imply 6 feet for rear setback and 25 feet for side setback. Please clarify.
5. The “Typical Single Family Detached lot” illustrative depicted on Sheet 7 incorrectly depicts side yards of six feet. Please correct this.

6. **Proffer comments (from Susan Glass, Proffer Manager)**

- Proffer I.2, Public Road Access: Belmont Glen Drive is not shown on the CDP. Does the Applicant intend to specify Belmont Glen Place?
- Proffer I.3, Construction Traffic Access: Repeat of above comment; does the Applicant intend to specify Belmont Glen Place rather than Belmont Glen Drive?
- Old Proffer V.11, Frontloaded Cash Contributions for Regional Road Improvements: I confirmed that the County previously received payment of frontloaded cash contribution.
- Proffer VI.12, Dedication of Open Space/Park Land Along Goose Creek: This proffer provides that 61.33 acres shall be dedicated to the county and that the land shall be maintained in its natural condition. However, the dedication is subject to the Applicant’s right to install and construct public utility and stormwater conveyance improvements on the property, which contradicts the proffer commitment to leave the property in its natural state.
- Proffer VI.16, Trails: Second paragraph, the third line has a typo; the sentence should read: “This trail shall be constructed or bonded for construction prior to the issuance of the...”rather than “o the”.
- Proffer VI.17, Archeological Site: I believe the reference to proffer 13 above in the second line should be revised to proffer VI.12.
- Proffer VI.17, Archeological Site: We encountered some issues with preventing disturbance of this site during CPAP review. I have asked Mike Clem, B&D Archeologist, to review this proffer.
- Proffer VI.17, Archeological Site: On sheet 3 of the CDP, it appears that the line indicating Future Public Passive Park Open Space Demarcation Line bisects the archeological site. I believe the intent of proffer IV.17 is for the site to be included in the property conveyed to

the County. Please review and revise the CDP sheet(s) accordingly.

- Proffer VI.18, Goose Creek Reservoir Protection Buffer and Scenic Easement: The Applicant proposes establishing a 300-foot easement from the stream bank of the active channel of Goose Creek, which shall remain undisturbed, except for those areas that shall be dedicated in fee simple to the County. Why is the Applicant proposing this exception for the future County property when proffer VI.12 provides that the property shall remain in its natural state?
- Proffer VI.19: Tree Conservation Plan: I believe the reference to proffer 16 above in the last sentence should be revised to proffer VI.15 (Proffer VI.16 pertains to trails rather than tree save areas).
- Proffer VII.20, Homeowner's Association: I believe the County's General Services division has assumed responsibility for maintaining stormwater management facilities.
- Proffer VII.23, Stormwater Management Ponds: The previous ZMAP application assumed stormwater management would be provided by LID facilities scattered around the development. I believe the approved CPAP has only the one stormwater management pond which is adjacent to the future County park site. However, possible LID is still shown on the CDP. Will LID be used?
- Proffer VII.25, Property Owner Education and Notification: I believe the reference to proffer 24 should be Proffer VII.23 (proffer 24 is for utility routing, not stormwater management ponds).
- Proffer IX.27, Affordable Dwelling Units: Will the County receive a lump sum payment of \$449,756.67? Or is the Applicant intending to make a per unit contribution that will total this amount? Please revise this proffer to clarify how the County will receive the payment.